

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JAMES A. BROOKS,

Petitioner,

CIVIL ACTION NO. 04-74045

vs.

DISTRICT JUDGE PAUL BORMAN

DAVID GUNDY,

Respondent.

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**ORDER (1) DENYING A CERTIFICATE OF APPEALABILITY, AND**  
**(2) DENYING APPLICATION TO PROCEED *IN FORMA PAUPERIS***

Petitioner filed a notice of appeal pursuant to 28 U.S.C. § 2255. In order to appeal the court's decision under § 2255, a certificate of appealability ("COA") must issue. *See* 28 U.S.C. § 2253(c)(1). Petitioner filed a Motion for Certificate of Appealability and an Application to Proceed *In Forma Pauperis* on January 13, 2006.

In the Court's December 1, 2005 Order denying Petitioner's Habeas Corpus petition, the Court explicitly declined to issue a certificate of appealability on any of Petitioner's claims, and denied Petitioner leave to proceed on appeal *in forma pauperis*. (Dec. 1, 2005 Order Denying Habeas Corpus Petition, 12-13) (Docket Entry 24).

Accordingly, **IT IS ORDERED** that Petitioner's Motion for Certificate of Appealability is DENIED;

**IT IS FURTHER ORDERED** that Petitioner's Application to Proceed *In Forma*

*Pauperis* is DENIED.

s/Paul D. Borman  
PAUL D. BORMAN  
UNITED STATES DISTRICT JUDGE

Dated: February 1, 2006

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record by electronic means or U.S. Mail on February 1, 2006.

s/Jonie Parker  
Case Manager